

NATURAL RESOURCE COMMISSION[571]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 455A.5(6)“a,” 461A.35, and 461A.41, the Natural Resource Commission hereby amends Chapter 54, “Restrictions on Introduction and Removal of Plant Life,” Iowa Administrative Code.

These amendments allow dock permittees more flexibility in removing aquatic vegetation without a permit around boat docks and when creating boating pathways to open water. Recent efforts by the Department of Natural Resources (Department) to improve water quality have been very successful, and much of this success is due to the Department’s Lake Restoration Program. Clear water is a benefit of improved water quality, but it may result in the growth of dense-rooted aquatic plant life. Lake users are very pleased with lake restoration efforts and the good water clarity that results from those efforts. However, some dock permittees, including private individuals as well as cities and counties, are faced with excessive growth of rooted aquatic plants around boat docks and in pathways to open water. The Department has received complaints from dock permittees requesting that action be taken to streamline the process for removing such vegetation.

These amendments are intended to give dock permittees additional justification to remove aquatic vegetation without a permit, thereby reducing the Department’s administrative time in reviewing and issuing such permits, and to remove the vegetation in a manner that does not harm water quality or aquatic life.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 6, 2014, as **ARC 1564C**. Public hearings were held on August 28, 2014, and on September 4, 2014. No one attended the hearing in Des Moines on September 4; six people attended the August 28 hearing in Ventura. Those attending gave approval to the proposed amendments but wanted to know more about aquatic herbicides and grass carp as means to control vegetation. Department staff stated that the Department wants to take a conservative approach and that these alternatives may be considered in the future. Staff explained that the Department does not have the resources needed to treat areas around private docks; the danger of some chemicals to people, aquatic life and water quality; and concerns about chemical application by individuals or certified applicators. Attendees were not aware of an aquatic mower available on the market and were directed to a manufacturer’s Web site. The adopted amendments do allow for the use of this type of mower. Staff explained that even though grass carp are effective in controlling vegetation, they, at the same time, cause negative impacts to water quality.

After analysis and review of this rule making, no impact on jobs should result.

These amendments are intended to implement Iowa Code sections 455A.5(6)“a,” 461A.35, and 461A.41.

These amendments shall become effective December 3, 2014.

The following amendments are adopted.

ITEM 1. Amend subrule 54.5(1) as follows:

54.5(1) Permits.

a. The department may issue permits for the introduction and removal of aquatic plants in public waters. To be considered for a permit under this rule, applicants shall use the department’s application form for sovereign lands construction permits, as described in rule 571—13.9(455A,461A,462A), and shall complete all relevant information on that application form. Applicants shall also provide any additional information as may be necessary, as described in rule 571—13.10(455A,461A). The term of the permit shall be stated in the permit. Permits are nontransferable and shall be subject to reevaluation upon expiration. Permits may be issued for between one and five years.

b. Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation from water intake structures. However, such cities and counties shall be required to obtain a permit under this rule and rules in 567—Chapter 66, as may be required, for such activities.

ITEM 2. Amend subrule 54.5(5) as follows:

54.5(5) Exceptions.

~~a. Activities accomplished by the department or its agents to introduce or remove aquatic vegetation in public waters shall be deemed appropriate and shall not be subject to the permit requirements of this rule provided the activity is in the public interest and the activity does not constitute one of the prohibited activities described in 571—subrule 13.6(2). A dock permittee whose dock meets rule 571—16.4(461A,462A), 571—16.6(461A,462A), or 571—16.7(461A,462A) may remove aquatic vegetation without a permit if the aquatic vegetation:~~

~~(1) Creates a hazardous or detrimental condition in the boating area around the dock, or~~

~~(2) Covers a minimum of 75 percent of the boating area around the dock.~~

~~b. Cities and counties in Iowa may use chemicals, including pesticides and herbicides, to remove aquatic vegetation from water intake structures. However, such cities and counties shall be required to obtain a permit under this rule and rules in 567—Chapter 66, as may be required, for such activities.~~

~~b. A dock permittee meeting one of the exceptions in paragraph 54.5(5) “a” must verify at inspection that the dock meets the criteria for a Class I, Class II or Class III dock permit and is limited to the following:~~

~~(1) Removal of vegetation in a 20-foot radius around the dock;~~

~~(2) Removal of a hazardous or detrimental condition when it interferes with safe boating passage and is located within the boating area around the dock;~~

~~(3) Creation of a 15-foot-wide boating pathway utilizing a direct route from the dock to open water;~~

~~(4) Adherence to the requirement to leave the vegetation in place or collect and compost it on land that is owned, leased or otherwise subject to use by the dock permittee and is adjacent to the removal area;~~

~~(5) Removal of the vegetation by hand-cutting, hand-pulling, hand-raking or mechanical cutting devices, excluding automated plant control devices that disturb the bottom substrate.~~

~~c. Aquatic vegetation located in public waters may be removed by persons without a permit under this rule only after the department, in its sole discretion, determines and evidences in writing that a hazard or other detrimental condition exists and the proposed mitigative activity is appropriate. Such activity shall be limited only to the work required to address the immediate hazard or other detrimental activity. Any removal allowed by this rule shall conform to the requirements enumerated by the department regarding such removal, or the removal shall be deemed an unauthorized action resulting in damage to public waters. Persons proposing to remove hazards must contact a local department official and request an exception to a permit. The department official shall inspect the hazard or detrimental condition and provide written authorization to proceed or shall require the person to apply for a permit under this rule.~~

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/29/14.